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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/916,725	07/26/2001	Todd A. Edwards	A-69861/ENB	9438

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EXAMINER

TRAN, KHOA H

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 11/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/916,725

Applicant(s)

EDWARDS, TODD A.

Examiner

Khoa Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/13/02.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,8,11-18,25-30 and 33-36 is/are pending in the application.
- 4a) Of the above claim(s) 1-6,8,18 and 33-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-17 and 25-28 is/are rejected.
- 7) ☒ Claim(s) 29 and 30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 13 November 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Election/Restrictions

Applicant's election without traverse of Species I, Figures 1-4 in Paper No. 4 is acknowledged. However, after a careful consideration of all claims, it appears that claim 1 is not a generic claim because it requires "first and second longitudinally-extending portions inclined at an angle relative to each other", see line 8 of claim 1. Note that the elected embodiment of Figures 1-4 does not possess the inclined portions. Further, claim 11 is not a generic claim because it requires the body to have a substantially planar central portion and opposite first and second side portions", see lines 2-3 of claim 11. Note the species of Figures 5-7 and 9 do not possess this feature. Further still, claim 18 is not readable on the elected species because of the recitation "the first and second side portions are each inclined at an obtuse angle relative to the first surface of the central portion". Note the elected embodiment of Figures 1-4 does not possess the side portions are inclined at an obtuse angle. Finally, claims 26 and 27 ^{are} ~~do~~ not readable on the elected species because of the recitation "first and second longitudinally-extending portions inclined at an angle relative to each other" and the recitation of first and second portions meet at an edge and each extend downwardly from the edge. Note that the non-elected species of Figures 5-7 possess these features.

According to the reasons as mentioned above, claims 1-6, 8, 18, 26, and 27 are withdrawn from consideration as being directed to a non-elected species.

Applicant's amendment adds method claims to the product originally claimed. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-17, 25, and 28-30 are drawn to a hanger spacer apparatus, classified in class 211, subclass 123.
- II. Claims 33-36 are drawn to a method for separating hangers, classified in class 198, subclass 680.

The inventions are distinct, each from the other because of the following reasons: Inventions Group I, as claimed, and Group II, as claimed, are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the process of using the product as claimed in claim 33 can be practiced with a spacer that does not have a planar central portion, i.e., a V-shaped spacer.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

With respect to the newly submitted claims 33-36, that are directed to a method which is independent and distinct from the invention originally claimed, these claims will not be considered because the applicant has already received an Office action based on the merits of the originally presented apparatus invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 33-36 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Drawings

The proposed drawing corrections and/or the proposed substitute sheets of drawings, filed on November 13, 2002, have been approved.

Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 11 and 25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. With respect to claims 11 and 25, the recitation of "thin" is considering new matter because there is no support in the original disclosure of the hanger spacer being "thin".

Claims 11 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With respect to claims 11 and 25, the alternative recitation "or" renders the claims indefinite because it is unclear which one to the two nonequivalent alternatives the applicant is setting forth. Are garments supposed to be the articles being referred to or just merely any object? Finally, it's unclear what constitutes "other objects". In particular, it would appear that garments would be the

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only objects subject to wrinkling. What other objects besides garments are being contemplated?

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11-17, 25, and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Richer ('160). Richer ('160) discloses a lightweight hanger spacer comprising a unitary thin body of cardboard material (10) having substantially planar central portions (24, 14') and opposite first and second side portions (15). The central portions have opposite first and second surfaces and a plurality of longitudinally spaced-apart holes (21, 22) extending through the surfaces along a longitudinal axis of the central portions. The opposite first and second side portions (15) are configured at an inclined angle relative to the central portions and the first and second side portions provide rigidity to the body, wherein the spaced-apart holes on the central portions inhibit wrinkling to the garments that are hangable on the hangers because the spaced apart holes restrain the hangers and the garments from contact one another to lessen the garments to be wrinkled. See Figures 10 and 11.

Claims 11-17, 25, and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Richer ('460). Richer ('460) discloses a lightweight hanger spacer

comprising a unitary thin spacer of cardboard material (10) having a substantially planar central portion (37) and opposite first and second side portions (34, 35). The central portions have opposite first and second surfaces and a plurality of longitudinally spaced-apart holes (39, 39') that extending through the surfaces along a longitudinal axis of the central portions. The opposite first and second side portions are configured at an inclined angle relative to the central portions that extended downwardly from an edge of the central portion toward the hangers, and the first and second side portions provide rigidity to the body, wherein the spaced-apart holes on the central portion inhibit wrinkling to the garments that are hangable on the hangers because the spaced apart holes restrain the hangers and the garments from contact one another to lessen the garments to be wrinkled. See Figures 1 and 7.

Claim 25 is rejected under 35 U.S.C. 102(b) as being anticipated by Sutton ('999). Sutton ('999) discloses a hanger spacer comprising a unitary thin spacer (18) having first and second portions (22, 24) that extended downwardly toward a plurality of hangers (12). The hanger spacer (18) extending along a longitudinal axis having opposite first and second surfaces that provided with a plurality of longitudinally spaced-apart holes (26). The first and second longitudinal extending portions (20 and 22) are configured at an inclined angle and provided rigidity to the spacer, wherein the spacing of the spaced-apart holes on the second portion slidably received the hangers that inhibits wrinkling to the garments. See Figure 1.

Allowable Subject Matter

Claims 29 and 30 are objected to as being dependent upon a rejected base claim.

Claim 29 would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance:

Claim 29 is allowable because there is no teaching or suggestion from the prior art of "a tie extending through the necks above the spacer and having first and second ends that can be tied together" see claim 29, lines 1-2.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

Applicant's arguments with respect to claims 11-17, 25, and 28 have been considered but are moot in view of the new grounds of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa Tran whose telephone number is (703) 306-3437. The examiner can normally be reached on Monday through Thursday from 9:30 A.M. to 7:00 P.M.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola, can be reached on (703) 308-2686. The fax phone number for this Group is (703) 305-3597 or (703) 305-3598.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

Khoa Tran

October 20, 2003

A handwritten signature in black ink that reads "Daniel P. Stodola". The signature is written in a cursive style with a large, looped initial "D".

DANIEL P. STODOLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600